

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2002-0021

FOR

FORMER McNAMARA & PEEPE CORPORATION
WILLIAM B. GROVER, TRUSTEE IN BANKRUPTCY

FORMER McNAMARA & PEEPE CRESCENT CITY SAWMILL
1607 FIFTH STREET
CRESCENT CITY, CALIFORNIA

Del Norte County

The Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. McNamara & Peepe Corporation owned and operated a sawmill in Crescent City, California, immediately east of U. S. Highway 101, hereinafter the "Site" (Attachment A). The Site occupies approximately 40 acres on several parcels at 1607 Fifth Street and it is located in Section 28, Township 16N, Range 1W, Humboldt Baseline and Meridian.
2. The McNamara & Peepe Corporation operated a sawmill on the Site from the mid-1940's until December 18, 1981, when the sawmill ceased operations. William B. Grover is the Trustee in Bankruptcy for the debtor, McNamara & Peepe Corporation. The Trustee has possession and control of the former McNamara & Peepe Crescent City Sawmill Site. Hereinafter McNamara & Peepe Corporation and William B. Grover, Trustee will be referred to as "the Dischargers."
3. Sawmill operations included a log pond and surrounding log decks for log storage. A used drum storage area was located near the log pond east of the sawmill building. Over the course of operations, various wood treatment chemicals including copper 8-quinolinolate, noxtane, and Chapman P-180[®] were applied to cut lumber for sapstain control in the sawmill and planning mill areas. Earlier operations involved application of the wood treatment chemicals using a spray booth, which continuously showered cut or planned lumber as it moved through the booth on a conveyor belt, known as the green chain. Later upgrades at the Site included replacement of the sawmill spray booth with a dip tank.
4. Chapman P-180[®] contains methanol and chlorinated phenolics including pentachlorophenol and tetrachlorophenol. The wood treatment chemical was mixed with water in a 500-gallon aboveground tank and pumped to a spray booth or a dip tank on the green chain. The area beneath the dip tank was bermed but not adequately contained to prevent overflow of dripping wood treatment chemicals. The dip tank and green chain were inadequately covered allowing storm water contact with wood treatment chemicals. The record includes documentation indicating that storm water runoff containing wood treatment chemicals would overflow the bermed area, discharging to the log pond and Elk Creek Estuary via numerous routes.
5. Heavy equipment and vehicle maintenance occurred onsite. Crankcase oil and other waste oils were collected and reused. Steam cleaning was performed on bare ground with no provision for waste collection or treatment. Waste handling practices at the Site were inadequate, resulting in the discharge of the waste to waters of the State. For example, during a December 1979 Regional Water Board inspection, Staff observed oil drums and Chapman P-180[®] drums lying on the ground adjacent to the log pond and Staff observed a heavy oil sheen discharging from the Site to Elk Creek Estuary.

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6. On December 15, 1981, the Executive Officer issued Monitoring and Reporting Program No. 81-229 to McNamara & Peepe Corporation, requiring the collection of technical monitoring data and submittal of technical monitoring reports. No monitoring reports were submitted as required by Order No. 81-229. Order No. 81-229 is now obsolete because the former mill is no longer active and all associated building structures have been removed.
7. On January 26, 1983, Regional Water Board staff took samples of sump and storm water runoff from the Site. Laboratory analytical results from these samples indicated the presence of pentachlorophenol and tetrachlorophenol at levels up to 7,500 ug/l (parts per billion (ppb)) and 11,000 ppb, respectively. On March 6, 1983, Regional Water Board staff notified the McNamara & Peepe Corporation of the presence of wood treatment chemicals in sump and storm water discharges from the Site and requested a remediation plan to cleanup the discharges.
8. On April 5, 1983, the McNamara & Peepe Corporation submitted a plan to cleanup the wood treatment chemicals at the Site, to be followed by submittal to the Regional Water Board of a report documenting cleanup activities. A report documenting cleanup activities was not submitted.
9. In 1987, fish tissue samples were collected from Elk Creek Estuary as a part of the United States Environmental Protection Agency's (US EPA) National Bioaccumulation Study. Analytical results indicated 6.54 picograms per gram (pg/g or parts per trillion (ppt)) total chlorinated dibenzo dioxins and chlorinated dibenzofurans in fish tissue. Several congeners were detected, including 0.63 ppt of 2,3,7,8-tetra-chlorinated dibenzo-p-dioxin (TCDD). The Toxicity Equivalency Concentration was found to be 0.84 ppt, of which 83 percent was contributive of 2,3,7,8 or 1,2,3,7,8 congeners.
10. On May 8, 1989, Regional Water Board staff received notice of the Trustee's intent to abandon real property, including the Site. On May 16, 1989, the Regional Water Board filed an objection to the Trustee's notice of intent to abandon the Site. On June 12, 1989, the Regional Water Board was notified that the Trustee had dropped his application to abandon the property that included the Crescent City Sawmill Site. In December 1992 and August 1995 the Regional Water Board again received notices of the Trustee's intent to abandon real property that could include the Site, and the Regional Water Board filed successful notices of objection on both occasions.
11. On March 30, 1993, the Executive Officer issued Cleanup and Abatement Order 93-53. That Order required the collection of technical data and submittal of technical reports to define the extent of Site contamination. No workplans or reports were submitted as required by Cleanup and Abatement Order 93-53.
12. On December 13, 1999, the Executive Officer issued Cleanup and Abatement Order 99-76. That Order rescinded and replaced Cleanup and Abatement Order 93-53, except for the purposes of enforcing past violations of Cleanup and Abatement Order 93-53. Activities performed to comply with Cleanup and Abatement Order 99-76 have included submittal of technical workplans and reports documenting historic site activities, and completion of preliminary soil, groundwater, and sediment investigations.
13. US EPA collected Site soil, sediment, and fish tissue samples in September 2000. Several chlorinated dibenzo dioxins and chlorinated dibenzofurans congeners were detected, including 17 ppt of 2,3,7,8-tetra-chlorinated dibenzo-p-dioxin (TCDD) in Elk Creek Estuary sediment downstream of historic Site storm water runoff. TCDD was also reported at 0.72 ppt in fish tissue samples collected by US EPA in September 2000.

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14. The Dischargers conducted preliminary Site investigations in November 2000 to comply with specific provisions of Cleanup and Abatement Order 99-76. Preliminary investigation analytical results indicated up to 11,000 ug/kg (micrograms per kilogram or parts per billion (ppb)) pentachlorophenol and up to 7,500 ppb tetrachlorophenol in Site soil near the former dip tank and green chain. Analytical results also indicated up to 305.14 ppt total chlorinated dibenzo dioxins and chlorinated dibenzofurans in Elk Creek Estuary sediments.
15. Pentachlorophenol is a carcinogenic substance. Pentachlorophenol and tetrachlorophenol are toxic to fish and other aquatic organisms, impart undesirable taste and odors to fish flesh, and can accumulate in bottom sediments. Chlorinated dibenzo dioxins and chlorinated dibenzo-furans bioaccumulate in aquatic tissues and are toxic to aquatic organisms.
16. Fresh water ponds including the former log pond and oxbow pond are located within or adjacent to Site boundaries. The Site is located adjacent to the Elk Creek Estuary, a tributary to Crescent City Harbor. Extensive wetlands exist on and near the Site.
17. The existing and potential beneficial uses of the ponds, Elk Creek Estuary, and Crescent City Harbor include:
 - a) municipal & domestic supply
 - b) agricultural supply
 - c) industrial process supply
 - d) groundwater recharge
 - e) non-contact water recreation
 - f) water contact recreation
 - g) commercial and sport fishing
 - h) cold freshwater habitat
 - i) wildlife habitat
 - j) migration of anadromous fish
 - k) fish spawning area
 - l) estuarine habitat
 - m) aquaculture
 - n) navigation
 - o) area of special biological significance
 - p) habitat for rare and endangered species
 - q) shellfish harvesting
 - r) marine habitat
 - s) saline water habitat
18. The Site overlies shallow groundwater that is less than five feet below ground surface. Site groundwater may be in hydraulic continuity with surface waters of the fresh water ponds and the Elk Creek Estuary.
19. The beneficial uses of areal groundwater include:
 - a) domestic water supply
 - b) agricultural supply
 - c) industrial supply
20. The Dischargers named in this Order have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged where it is, or probably will be, discharged into waters of the State and creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of contaminants has unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and has impaired water quality to a degree which creates a threat to public health and public resources and therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated.

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21. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup to background levels is the presumptive standard. Any proposed alternative that will not achieve cleanup to background levels, must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedence of background levels (SWRCB Res. 68-16 and 92-49, 23 CCR section 2550.4, subs. (c), and (d)).
22. Water quality objectives exist to ensure the beneficial uses of water. Several beneficial uses of water exist, and the most stringent objective for protection of all beneficial uses is selected as protective for water quality. A listing of the water quality objectives for waters of the State affected by discharges from the Site is included as Attachment B to this Order.
23. Cleanup and abatement activities required by Cleanup and Abatement Order No. 99-76 remain to be performed at the Site. These activities include: a) remedial investigation to completely define the extent of contamination; b) ecological and human health risk assessment; c) feasibility study and assessment of remedial alternatives; d) appropriate cleanup and abatement activities; and e) monitoring. The remaining activities require a new schedule for completion. Therefore, this Order replaces Cleanup and Abatement Order No. 99-76 as to the cleanup and abatement activities required to be conducted on the Site and reflects the new schedule for completion of required activities. This Order leaves Cleanup and Abatement Order No. 99-76 intact for the purpose of enforcement for violations of Cleanup and Abatement Order No. 99-76.
24. Discharge prohibitions contained in the Basin Plan apply to this site. State Water Resources Control Board Resolution 68-16 applies to this site. State Water Resources Control Board Resolution 92-49 applies to this site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
25. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the California Water Code.
26. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq. ("CEQA")).
27. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of CEQA in accordance with Section 15321, Chapter 3, Title 14 of the California Code of Regulations.
28. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Water Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. Such requests should be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights.

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THEREFORE, IT IS HEREBY ORDERED that, except for the purposes of enforcement of past violations, Monitoring and Reporting Program No. 81-229 and Cleanup and Abatement Order No. 99-76 are hereby rescinded, and that pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge and shall comply with the provisions of this Order:

1. The Dischargers shall conduct all work under the direction of a California registered engineer or geologist experienced in pollution investigation and cleanup in accordance with all local ordinances. All necessary permits shall be obtained.
2. On November 8, 2001, Regional Water Board staff concurred with the Site Remedial Investigation Workplan, and addendum. By March 8, 2002, the Dischargers shall submit to the Executive Officer for concurrence the report of Site investigation from the investigation approved on November 8, 2001.
3. By May 1, 2002, the Dischargers shall submit an ecological and human health risk assessment workplan to evaluate appropriate cleanup levels for soil, groundwater, surface water, and sediment. The content of the ecological and human health risk assessment workplan shall conform to the guidelines suggested by the California Office of Environmental Health Hazard Assessment. In addition, the risk assessment workplan proposal shall include any outstanding investigation needed to completely define the vertical and horizontal extent of wood treatment chemicals, associated impurities, petroleum hydrocarbons, and other wastes connected with historic Site activities.
4. By July 1, 2002, the Dischargers shall submit for concurrence by the Executive Officer a public participation plan including, but not limited to the following items:
 - a. A description of the purpose of the public participation plan and brief summary of the Site;
 - b. History and pertinent background information on the site and overview of the demographics of the nearby community;
 - c. A summary of community issues or concerns expressed during interviews or other information gathering efforts;
 - d. A list of activities to be conducted to accomplish public involvement with the project as well as personnel who will implement the public participation plan. This section shall include public notices for availability of the feasibility study, draft remedial action plan, and other relevant documents for public review, the location of public document repositories, and a description of the public meeting to be held to gather comments and address any concerns related to the draft Remedial Action Plan once accepted by Regional Water Board staff;
 - e. An outline schedule for activities to be conducted at the site; and
 - f. A list of references used to develop the public participation plan.
5. By November 1, 2002, the Dischargers shall submit to the Executive Officer, the ecological and human health risk assessment report in conjunction with the final investigation report delineating the extent of Site contamination.
6. By April 1, 2003, the Dischargers shall submit to the Executive Officer for concurrence a feasibility study evaluating cleanup and abatement alternatives and identifying the preferred remedial alternative for each media at the Site. The feasibility study shall evaluate a minimum of three remedial alternatives for each affected media. The evaluation shall include, but not be limited to the ability to attain cleanup objectives, time to achieve cleanup objectives, technical feasibility, implementability, and costs.

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7. By August 1, 2003, the Dischargers shall submit to the Executive Officer for concurrence, a remedial action plan (RAP) proposal to implement the selected cleanup and abatement alternative. The RAP shall include a schedule for implementation and a proposal for post-remedial action monitoring.
8. The Dischargers shall implement the RAP in accordance with the schedule approved by the Executive Officer.
9. The Dischargers shall promptly pay in accordance with the invoicing instructions all invoices for Regional Water Board oversight, including associated oversight costs for the Office of Environmental Health Hazard Assessment review of necessary documents including the ecological and human health risk assessment.
10. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of the time as specified. The extension request shall include justification for the delay. An extension may be granted for good cause, in which case this Order will be accordingly revised.

Ordered by _____
Susan A. Warner
Executive Officer

January 18, 2002